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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/608,807	06/27/2003	Lon E. Bell	AMERGN.16CCPC1	7944	
20995	7590 09/29/2004		EXAMINER		
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET			DOERRLER, WILLIAM CHARLES		
FOURTEEN			ART UNIT	PAPER NUMBER	
IRVINE, CA			3744	· .	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If IN Operation freely is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 49-52 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement.				Λ Λ σ				
## Examiner ## Art Unit ## 3744 ## The MAILING DATE of this communication appears on the cover sheet with the correspondence address = Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. • Examiner is the reply the available under the provisions of 37 CFR 1.73(a)c), in so event, however, may a reply be timely fixed with State 30 cm to the state that the 10 cm and the		Application No.	Applicant(s)	\\ /\ /				
### William C Doerrier ### The MAILING DATE of this communication appears on the cover shoot with the correspondence address **Period for Reply** A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. ### THE MAILING DATE OF THIS COMMUNICATION. ### THE MAILING DATE OF THIS COMMUNICATION. ### THE period for reply specified above is last than this; (30) days, a ray py within the chaldray relief was pying within the period for reply specified above is last than this; (30) days, a ray py within the chaldray relief was pying with the period for reply specified above is the communication. #### The period for reply specified above is last than this; (30) days, a ray py within the chaldray relief was pying within the chaldray relief was pying with the chaldray relief was pying with the practice of the communication. #### The period for reply specified above is the thind the mailing date of this communication, even if timely filed, may reduce any search part to the date of this communication, even if timely filed, may reduce any search power and the properties of the communication, even if timely filed, may reduce any search power and the properties of the communication, even if timely filed, may reduce any search power and the properties of the communication. #### The period for reply specified above is the thin this part of the properties. #### The period for reply specified above. Sea of the properties of the properties. #### The period for reply specified above. Sea of the properties of		10/608,807	BELL, LON E.					
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12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☑ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	11) The oath or declaration is objected to by the Ex	caminer. Note the attached Onio	LE ACTION OF TORM P	10-102.				
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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 52 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how claim 52 further limits claim 49, from which it depends. All the limitations of claim 52 are found in claim 49.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 49-52 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-38 of U.S. Patent No. 6,606,866. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 17-28 and 47-52 of the patent claim structure

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which is not patentably distinct from the current method and claims 29-46 of the patent claim the same inventive concept, a method for cooling a fluid using thermoelectric means with segments that are thermally isolated from each other to thermally treat a fluid which is passed over heat exchangers associated with the thermoelectric elements in a direction away from the axis with only minor, obvious grammatical differences. In regard to claims 17-28 and 47-52, the claims are not patentably distinct since the currently pending method claims cannot be performed without the patent structure and vise versa. In regard to claims 29-46 the claims differ only in grammatical differences that one of ordinary skill in the art would consider obvious variances which cover the same method steps as previously patented.

Claims 49-52 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 49-72 of U.S. Patent No. 6,539,725 in view of Attey. Applicant's prior patent claims the same inventive concept, a method for forming a thermoelectric system by forming a plurality of thermoelectric elements into an array which are thermally isolated from each other and forming a heat exchanger on both sides of the thermoelectric elements to provide flow paths for a heat transfer fluid, substantially as currently claimed with the exception of flowing the heat transfer fluid away from an axis of the heat exchanger. Attey shows this feature to be old in the thermoelectric heat transfer art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of Attey to modify applicant's earlier claims by forming the heat exchange surfaces to flow the heat transfer fluid away from the axis to provide a compact and efficient heat transfer device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C Doerrler whose telephone number is (703) 308-0696. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William C Doerrler Primary Examiner Art Unit 3744

WCD